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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

<b>PHUONG TRAN,</b>	<b>CASE NO.: 2:12-cv-01372-GMN-GWF</b>
<b>Plaintiff,</b>	<b>HON: GLORIA M. NAVARRO</b>
<b>vs.</b>	<b>District Court Case: A-12-665248</b>
<b>QUALITY LOAN SERVICE CORPORATION, a California corporation,</b>	
<b>MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,</b>	<b><u>MEMORANDUM AND AFFIDAVIT OF</u></b>
<b>corporation,</b>	<b><u>EDWARD S. COLEMAN</u></b>
<b>OCWEN LOAN SERVICING, LLC,</b>	
<b>GSAMP Trust 2005-WMC1, a trust,</b>	
<b>WMC MORTGAGE CORPORATION, a corporation,</b>	
<b>DEUTSCHE BANK NATIONAL TRUST COMPANY,</b>	
<b>Does 1 -10 inclusive,</b>	
<b>Defendants.</b>	

Plaintiff, through counsel, hereby submits her Memorandum to the Court, Including the Affidavit of Edward S. Coleman in relation to the Court's Order to provide previous case information and a copy of the order in U.S. District Court, District of Nevada Case Number **2:11-cv-00910-RCJ-LRL**, as requested by the Judge at the Hearing on September 21, 2012.

DATED this 6<sup>th</sup> day of September, 2012.

COLEMAN LAW ASSOCIATES,  
A Professional Law Corporation

/s/Edward S. Coleman  
EDWARD S. COLEMAN, ESQ.  
NV Bar No. 000601  
8275 S. Eastern Avenue, Suite 200  
Las Vegas, NV 89123

**AFFIDAVIT OF EDWARD S. COLEMAN IN RE ORDER FOR REMAND OF CASE TO  
STATE COURT BASED UPON 28 U.S.C.1441(c): NO FEDERAL QUESTION**

**STATE OF NEVADA**        )  
                                      ) ss.  
**COUNTY OF CLARK**        )

EDWARD S. COLEMAN, being first duly sworn deposes and says:

1. I am an attorney licensed to practice law in all of the courts in the States of Nevada and California, the United States District Court for the District of Nevada, the Ninth Circuit Court of Appeals, the United States Tax Court and the United States Supreme Court.

2. I am a senior member of Coleman Law Associates, a Professional Law Corporation (herein "CLA"), whose office is located at 8275 S. Eastern Avenue, Suite 200, Las Vegas, Nevada 89123 (formerly 6615 S. Eastern Ave., Suite 108, Las Vegas, Nevada 89119) and which law firm has and does now represent Plaintiff Phuong Tran in Case No. 2:12-cv-01372-GMN-GWF before the United States District Court for the District of Nevada; the case was the subject of a Notice of Removal from the Clark County District Court, State of Nevada, Case No. A-12-665248.

3. I have personal knowledge of, and am competent to testify to, the facts herein set forth except for those matters stated and upon information and belief, and as to those matters, I believe them to be true. At all times pertinent to the facts herein stated, either I, or an associate attorney or paralegal employed by my law firm participated in the drafting of documents and maintaining records comprising parts of my law firm's files and/or occurrences hereinafter set forth.

4. I make this Affidavit pursuant to Order of the Court to provide information as to the ruling of Chief United States District Judge Robert C. Jones in a similar case in which he ordered remand of a case similar to the current case. That case was entitled "Christopher Tran v. Julius Bacardi, Bank of America, et al," bearing Case No. 2:11-cv-00910-RCJ-LRL in the United States District Court for the District of Nevada; that case was originated as Case No. A-09-588948-C in the Clark County District Court, State of Nevada and was also subject to a Notice of Removal. Christopher Tran is not nor has he ever been related to Phuong Tran. The referenced case is herein referred to as "the prior case."

5. In the prior case, similar to the instant case, a law suit was filed in the state district court to determine the rights and obligations of the parties due to an alleged defect in the mortgage (trust deed)

1 foreclosure proceeding instituted by the Bank of America under the Nevada foreclosure statute (NRS  
2 107.086) as well as other consumer oriented statutes. All of the claims of the plaintiff were premised  
3 upon Nevada state law although the fifth cause of action, based upon deceptive trade practices, was  
4 generally related to mail fraud, wire fraud and bank fraud. That cause of action and others were  
5 dismissed due to motions made by the Bank of America in the state court. U. S. Bank, a defendant was  
6 served with process but defaulted, although that bank became active when a removal petition was filed in  
7 the U.S. District Court.

8 6. Similar to the instant case, after Bank of America filed a Petition for Removal to the  
9 federal court on June 3, 2011. It also made a motion to dismiss and a motion for summary judgment as it  
10 did in the instant case after plaintiff filed his motion for remand to the state court.

11 7. The Bank opposed the Motion to Remand which alleged, among other things, that there  
12 was no ground for remand in that there was a federal question giving the U. S. District Court jurisdiction  
13 under 28 U.S.C. 1441(a)(b) and (c). A notation of that claim is contained in Plaintiff's Reply to  
14 Opposition to Motion To Remand, marked **Exhibit "1"** and attached hereto and incorporated herein by  
15 reference.

16 8. Plaintiff also attaches hereto and incorporates herein by reference **Exhibit "2"** which is  
17 the Opposition to Defendant Bank of America's Motion for Summary Judgment for the purpose of  
18 indicating that Judge Jones had set a hearing on the Motion To Remand for October 21, 2011.

19 9. Affiant personally appeared at the scheduled hearing on the various motions, including the  
20 Motion To Remand, and argued the case before Judge Jones as did opposing counsel. Judge Jones orally  
21 announced his decision from the bench. He drafted and signed a written order in conformity therewith.

22 10. On November 4, 2011, Judge Jones issued his Order, a copy of which is attached hereto,  
23 marked **Exhibit "3"** and incorporated herein by reference. Reference is made to Judge Jones' discussion  
24 on Page 3, lines 13 et seq. as well as his order on Page 4, Lines 8 and 9 in which he states, "**Additionally,**  
25 **the Court grants Plaintiff's Motion to Remand (#6) because the complaint clearly raises all state**  
26 **law claims.**" He also treats the fifth cause of action relating to deceptive trade practices as a state law  
27 claim.

28 11. Judge Jones' judicial analysis was premised upon 28 U.S.C. 1441(c) as enacted by

1 Congress in Public Law 112-63 also known as the "Federal Courts Jurisdiction and Venue Clarification  
2 Act of 2011. A copy of that Public Law is marked **Exhibit "4"** attached hereto and incorporated herein  
3 by reference.

4 12. To provide even further support for the mandate of Congress to remand this case to the  
5 state court, Affiant also attaches the following:

- 6 a. Internet article by ReedSmith, dated January 20, 2012, specifying that Congress had  
7 stripped the federal courts of jurisdiction over unrelated state law claims marked and  
8 attached hereto as **Exhibit "5"**; and  
9 b. Pre-Congressional action by the Fifth Circuit Court of Appeals in *Eastus v. Blue Bell*  
10 *Creameries*, 97 F.3d 100 (5<sup>th</sup> Cir. 1996) marked and attached hereto as **Exhibit "6"**; and  
11 Seventh Circuit Court of Appeals in *Thomas v. Shelton*, 740 F.2d 478 (7<sup>th</sup> Cir. 1984)  
12 marked and attached hereto as **Exhibit "7"** previously cited by Affiant in its remand  
13 papers.

14 13. I believe I have cited as succinctly as possible the case and surrounding circumstances in  
15 regard to Judge Jones' decision and order

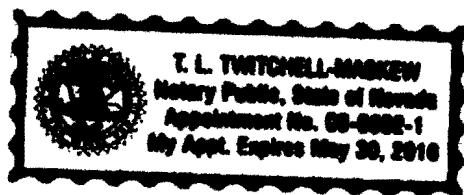
16 .  
17 Dated: September 24, 2012.

  
EDWARD S. COLEMAN

18  
19  
20 Subscribed to before me, a Notary Public  
in and for the County of Clark, State of  
Nevada.

21 September 24, 2012.

  
Tammy Twitchell-Maskew



**CERTIFICATE OF MAILING**

I hereby certify that I am over the age of eighteen (18), that I am not a party to this action, and that on this date I caused to be served a true and exact copy of the following documents:

**MEMORANDUM AND AFFIDAVIT OF EDWARD S. COLEMAN**

By: ☐ U.S. Mail  
☐ Facsimile Transmission  
☐ Overnight Mail  
☐ Hand and/or Personal Delivery  
☒ CM/ECF

and addressed to the following:

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Charles Tony Piccuta  
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*Attorneys for Defendant Quality Loan Service*

DATED this 24<sup>th</sup> day of September, 2012.

/s/Tammy Maskew  
An Employee of **COLEMAN LAW ASSOCIATES**